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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,120	09/17/2003	Harald Striegler	2730	4738

7590 06/21/2005

STRIKER, STRIKER & STENBY  
103 East Neck Road  
Huntington, NY 11743

EXAMINER
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IVEY, ELIZABETH D

ART UNIT	PAPER NUMBER
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1775

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/664,120

Applicant(s)

STRIEGLER, HARALD

Examiner

Elizabeth Ivey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

50-2

## **DETAILED ACTION**

### ***Priority***

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119 as follows:

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 9/19/2002. It is noted, however, that applicant has not filed a certified copy of the 102 43 500.6 application as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 9-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 9, the specification contains no disclosure of a multilayered undercoat on the underside in the specification.

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Regarding claim 10, the specification contains no disclosure of a covering layer of another paint backing the undercoat.

Regarding claim 11, the specification contains no disclosure of an undercoat provided with openings or different colored regions to mark cooking zones.

Regarding claim 12, the specification contains no disclosure of an undercoat provided with at least one display window for colored LEDs or LCDs.

Regarding claim 13, the specification contains no disclosure of at least one window display is for at least one residual heat signaling device.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites a glass panel being made from pre-stressed special glass. Applicant does not define what constitutes prestressed special glass. For purposes of furthering examination, Examiner interprets prestressed special glass as glass and glass ceramic materials generally used for cooktops.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,492,029 B1 to Beyrlé in view of U.S. Patent Application 2002/0084263 A1 to Wennemann et al further in view of U.S. Patent 6,517,943 B1 to Beunet et al.

Regarding claim 1-3, Beyrlé discloses a cooktop comprising a glass or vitro-ceramic (glass ceramic) pane or panel (column 1 lines 23-28), which may be tempered (column 5 lines 10-15), having an enamel coating comprising glass frit (analogous to flux) and colorant pigments. Pigments may comprise upto 70% of the composition by weight (column 4 lines 45-55) leaving 30% or less by weight for the frit or flux. Beyrlé does not explicitly disclose the glass or glass –ceramic to be transparent but discloses any glass substrate, which may be used for

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a cooktop (column 1 lines 20-30). Wennemann discloses a transparent colorless glass –ceramic bulk material or a glass panel made of prestressed colorless glass material (abstract); which provides a cooking surface (page 1 paragraph 0002). Since Wennemann's panel provides a cooking surface and Beyrlé's disclosure includes cooktops, it would be obvious to one having ordinary skill in the art at the time of the invention to utilize Wennemann's panel as Beyrlé's cooktop substrate. Beyrlé discloses the frit may be any known glass frit based on oxides chosen from among the oxides of silicon, lead zinc, bismuth, titanium, zirconium, sodium, boron, lithium, potassium, calcium, aluminum, tin, vanadium, molybdenum, magnesium, etc. and the pigments may be chosen from among the oxides of metals such as chromium, copper, iron, cobalt or nickel etc. or from among the chromates of copper. Beyrlé does not explicitly disclose an IR permeable undercoat and Wennemann discloses an IR permeable undercoat but not of enamel. However, Beunet discloses a decorative coating comprising a glass frit having a thermal expansion coefficient of  $30-40 \times 10^{-7} \text{ K}^{-1}$  (column 2 lines 55-60); which may be a borosilicate (column 4 lines 20-25) glass. Beunet discloses that a borosilicate glass is generally used to achieve said characteristics for use in such glass frit applications (column 4 lines 23-25). Therefore, it would be obvious to one having ordinary skill in the art at the time of the invention to utilize the borosilicate glass of Beunet as the frit disclosed by Beyrlé. Because the prior art exemplifies the applicant's claimed composition and structure in relation to the flux or frit, the claimed physical property relating to the IR permeability is inherently present in the prior art.

Regarding claim 2, Beyrlé discloses that the increase in the content of the pigments increases the opacity of the coating while increasing graphite content maintains the strength and durability of

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the coating (column 3 lines 49-52). Beyrlé does not disclose an enamel with 80-95 weight percent of inorganic pigment, however, it would have been obvious to one having ordinary skill in the art at the time of the invention to adjust the pigment content for the intended application, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 5 and 6; claims 5 and 6 are product by process claims wherein the patentability of the product does not depend on its method of production. "If the product in the product by process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *See MPEP 2113*. As such, the process limitation within claims 5 and 6 do not provide patentable distinction over the prior art.

Regarding claims 7 and 8, Beyrlé discloses that the enamel may be composed of a glass frit and colorant pigments allowing for a mixture of more than one pigment (column 1 lines 40-45).

Regarding claim 9, Beyrlé discloses that a plurality of coatings may be applied (column 5 lines 34-37).

Regarding claim 10, Wennemann discloses paints that are used on the underside of cooktops to back other pigments and discloses they are used to create special color effects (page

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1 paragraph 0018). Beyrlé discloses the enamels are used for decoration (column 1 lines 31-32), therefore it would be obvious to one having ordinary skill in the art at the time of the invention to apply the paint backing of Wennemann to back the enamel coatings of Beyrlé in order to create special color effects.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,492,029 B1 to Beyrlé in view of U.S. Patent Application 2002/0084263 A1 to Wennemann et al further in view of U.S. Patent 6,517,943 B1 to Beunet et al. as applied to claim 1 above, and further in view of U.S. Patent 5,484,467 to Nass et al. The combined disclosures of Beyrlé, Wennemann and Beunet disclose the elements of claim 1 but do not disclose openings or different color regions to mark cooking zones. Nass discloses the use of the decorative paints to mark cooking areas on a cook top and to affect the aesthetics of the cooktop (column 1 lines 20-26). Because it is important to have the cooking areas identified for utensile placement and because it is preferable for a cooktop to be aesthetically pleasing, it would have been obvious to one having ordinary skill in the art at the time of the invention to mark the cooking areas of the combined disclosure of Beyrlé, Wennemann and Beunet as is disclosed by Nass to delineate the cooking areas and create a more aesthetically pleasing cooktop.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,492,029 B1 to Beyrlé in view of U.S. Patent Application 2002/0084263 A1 to Wennemann et al, further in view of U.S. Patent 6,517,943 B1 to Beunet as applied to claim 1 above and further in view of U.S. Patent 4,855,550 to Schultz, Jr. The combined disclosures of



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Beyrlé, Wennemann and Beunet disclose the elements of claim 1 but do not disclose at least one display window for colored LEDs or for at least one residual heat signaling device. Schultz discloses a rectangular portion of the glass for a cooktop not covered by the opaque enamel film to provide a viewing window for underlying display elements which may be vacuum fluorescent devices (which examiner interprets could include residual heat signaling devices) or LEDs or other elements suitable for providing a visual indication of the selected power setting for the surface unit (column 3 lines 9-10 and lines 20-27). Because it is important for a cooktop to have a display for temperature and power settings it would be obvious to one having ordinary skill in the art at the time of the invention to provide at least one display window as disclosed in Schultz in the combined panel of Beyrlé, Wennemann, and Beunet.

Claims 1-9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,492,029 B1 to Beyrlé in view of U.S. Patent 5,070,045 to Comte et al. further in view of U.S. Patent 6,517,943 B1 to Beunet et al.

Regarding claims 1, 3 and 4, Beyrlé discloses a cooktop comprising a glass or vitro-ceramic (glass ceramic) pane or panel (column 1 lines 23-28), which may be tempered (column 5 lines 10-15), having an enamel coating comprising glass frit and colorant pigments. Pigments may comprise upto 70% of the composition by weight (column 4 lines 45-55) leaving 30% or less by weight for the frit or flux. Beyrlé does not explicitly disclose the glass or glass – ceramic to be transparent but Comte discloses a transparent glass – ceramic and designates its

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use for cooktop plates (column 2 lines 21-25). It would therefore be obvious to one having ordinary skill in the art at the time of the invention to utilize a transparent glass ceramic as in Comte with the disclosure of Beyrlé. Beyrlé discloses the frit may be any known glass frit based on oxides chosen from among the oxides of silicon, lead zinc, bismuth, titanium, zirconium, sodium, boron, lithium, potassium, calcium, aluminum, tin, vanadium, molybdenum, magnesium, etc. and the pigments may be chosen from among the oxides of metals such as chromium, copper, iron, cobalt or nickel etc. or from among the chromates of copper. Beyrlé does not explicitly disclose an IR permeable undercoat but Beunet discloses a decorative coating comprising a glass frit having a thermal expansion coefficient of  $30-40 \times 10^{-7} \text{ K}^{-1}$  (column 2 lines 55-60) which may be a borosilicate (column 4 lines 20-25). Beunet discloses that a borosilicate glass is generally used to achieve said characteristics for use in such glass frit applications (column 4 lines 23-25). Therefore, it would be obvious to one having ordinary skill in the art at the time of the invention to utilize the borosilicate glass of Beunet as the frit disclosed by Beyrlé. Because the prior art exemplifies the applicant's claimed composition and structure in relation to the flux or frit, the claimed physical property relating to the IR permeability is inherently present in the prior art.

Regarding claim 2, Beyrlé discloses that the increase in the content of the pigments increases the opacity of the coating while increasing graphite content maintains the strength and durability of the coating (column 3 lines 49-52). Beyrlé does not disclose an enamel with 80-95 weight percent of inorganic pigment, however, it would have been obvious to one having ordinary skill in the art at the time of the invention to adjust the pigment content for the intended

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application, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 5 and 6; claims 5 and 6 are product by process claims wherein the patentability of the product does not depend on its method of production. "If the product in the product by process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *See MPEP 2113*. As such, the process limitation within claims 5 and 6 do not provide patentable distinction over the prior art.

Regarding claims 7 and 8, Beyrlé discloses that the enamel may be composed of a glass frit and colorant pigments allowing for a mixture of more than one pigment (column 1 lines 40-45).

Regarding claim 9, Beyrlé discloses that a plurality of coatings may be applied (column 5 lines 34-37).

Regarding claim 14, because the prior art exemplifies the applicant's claimed composition and structure in relation to the glass or glass ceramic panel and the enamel coating, the claimed physical properties relating to the bending strength and impact resistance are inherently present in the prior art.

Claim 10 is rejected, under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,492,029 B1 to Beyrlé in view of U.S. Patent 5,070,045 to Comte et al. further in view of U.S. Patent 6,517,943 B1 to Beunet et al as applied to claim 1 and further in view of U.S. Patent Application 2002/0084263 A1 to Wennemann. All of the aspects of claim 1 are included in the combined disclosures of Beyrlé , Comte and Beunet but they do not disclose a covering layer of another paint backing said undercoat. Wennemann discloses paints that are used on the underside of cooktops to back other pigments and discloses they are used to create special color effects (page 1 paragraph 0018). Beyrlé discloses the enamels are used for decoration (column 1 lines 31-32), therefore it would be obvious to one having ordinary skill in the art at the time of the invention to apply the paint backing of Wennemann to back the enamel coatings of Beyrlé in order to create special decorative color effects.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,492,029 B1 to Beyrlé in view of U.S. Patent 5,070,045 to Comte et al, further in view of U.S. Patent 6,517,943 B1 to Beunet et al. as applied to claim 1 above, and further in view of U.S. Patent 5,484,467 to Nass et al. The combined disclosures of Beyrlé, Comte and Beunet disclose the elements of claim 1 but do not disclose openings or different color regions to mark cooking zones. Nass discloses the use of the decorative paints to mark cooking areas on a cook top and to affect the aesthetics of the cooktop (column 1 lines 20-26). Because it is important to have the cooking areas identified for utensile placement and because it is preferable for a cooktop to be aesthetically pleasing, it would have been obvious to one having ordinary skill in the art at the time of the invention to mark the cooking areas of the combined disclosure of Beyrlé, Comte

and Beunet as is disclosed by Nass to delineate the cooking areas and create a more aesthetically pleasing cooktop.

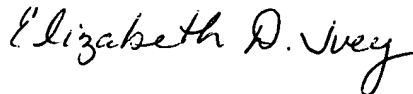
Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,492,029 B1 to Beyrlé in view of U.S. Patent 5,070,045 to Comte et al, further in view of U.S. Patent 6,517,943 B1 to Beunet as applied to claim 1 above and further in view of U.S. Patent 4,855,550 to Schultz, Jr. The combined disclosures of Beyrlé, Comte and Beunet disclose the elements of claim 1 but do not disclose at least one display window for colored LEDs or for at least one residual heat signaling device. Schultz discloses a rectangular portion of the glass for a cooktop not covered by the opaque enamel film to provide a viewing window for underlying display elements which may be vacuum fluorescent devices (which examiner interprets could include residual heat signaling devices) or LEDs or other elements suitable for providing a visual indication of the selected power setting for the surface unit (column 3 lines 9-10 and lines 20-27). Because it is important for a cooktop to have a display for temperature and power settings it would be obvious to one having ordinary skill in the art at the time of the invention to provide at least one display window as disclosed in Schultz in the combined panel of Beyrlé, Comte and Beunet.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Ivey whose telephone number is (571)272-8432. The examiner can normally be reached on 7:00- 4:30 M-Th and 7:00-3:30 alt. Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571)272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Elizabeth D. Ivey

  
DEBORAH JONES  
SUPERVISORY PATENT EXAMINER